HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R. No.4595 of 2006
Date of decision : 13.02.2007

Devender Singh **.....Petitioner**

versus

State of Haryana and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Ashok Aggarwal, Senior Advocate with
Mr.Mukul Aggarwal, Advocate for the petitioner.

Mr.K.S.Godara, DAG, Haryana for the respondents.

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ORDER

HEMANT GUPTA, J.

The challenge in the present revision petition is to the order dated 12.4.2006, passed by the learned trial Court and the order dated 8.8.2006, passed by the learned First Appellate Court, whereby an application filed by the petitioner under Order 39, Rules 1 & 2 of the Code of Civil Procedure for restraining the defendants from taking any action against the plaintiff on the basis of the inquiry report dated 2.12.2005 as well as for restraining the defendants from implementing the order passed by the Authorities cancelling the residence certificate granted to the plaintiff, was declined.

The petitioner applied for grant of residence certificate as a resident of village Neoli Kalan, Tehsil and District Hisar, on the basis of an affidavit dated 19.5.2005 wherein the petitioner claimed to be the permanent resident of village Neoli Kalan, Tehsil and District Hisar and domicile of Haryana State for the last 15 years. As per the report dated 2.9.2005 submitted by Fakir Chand, Numberdar of village Neoli Kalan,

the petitioner is permanent resident of village Neoli Kalan for the last 18 years. On the basis of said affidavit and the report, a residence certificate was granted to the petitioner on 26.5.2005.

Subsequently, on a complaint, the matter was investigated by the Sub Divisional Officer (Civil), Hisar and a report dated 2.12.2005, Annexure P-12 was submitted to the Deputy Commissioner Hisar. In the said report, it was found that the petitioner is not resident of Village Neoli Kalan. Petitioner has got no vote in village Neoli Kalan, whereas his vote is in village Dobhi and during the election of Gram Panchayats, he contested the election of Sarpanch of Village Dobhi in April, 2005. It has further been found that the petitioner got shifted to village Neoli Kalan on 17.5.2005 to get allotment of a petrol pump and that he has got no residential house in the said village. It was also noticed that the petitioner has produced photocopy of receipt of Chullah Tax dated 15.1.2005 simply to prove his residence. Thus, it was concluded that the petitioner does not reside in the village Neoli Kalan. On the basis of said report, vide order dated 7.12.2005 the Deputy Commissioner, Hisar directed the Tehsildar to cancel the residence certificate of the petitioner.

It may be noticed that on 15.5.2005, vide Annexure P-4, the Indian Oil Corporation has published an advertisement to seek appointment of operator of the Kisan Service Centers in the State of Haryana including one in village Neoli Kalan. One of the eligibility condition for grant of such Service Centre was that the candidate should be resident of the said village. On the basis of said residence certificate granted to the petitioner, the petitioner was successful in getting the allotment of the Service Centre. The cencellation of the residence

certificate has the effect on the allotment of Kisan Service Centre to the petitioner.

The plaintiff-petitioner filed the present suit for declaration challenging the order passed by the Deputy Commissioner in respect of cancellation of the residence certificate and also sought other directions as mentioned above. Both the Courts below have declined to grant interim order in favour of the petitioner.

Learned counsel for the petitioner has vehemently argued that in the Inquiry report, the Sub Divisional Officer (Civil) has wrongly taken into consideration that as per the Government Instructions the residence certificate is to be granted to a person who is residing at the said place for the last 15 years. It is pointed out that there is no instruction which contemplates 15 years for grant of residence certificate. It appears that the said finding in respect of residence is based on the averments made in the affidavit filed by the petitioner, dated 19.5.2005, but without going into the validity of withdrawal of the residence certificate at this stage suffice it to state that by virtue of the interim order, the orders passed by the Authorities cancelling the residence certificate cannot be stayed. By virtue of an interim order, the petitioner cannot be granted any ad interim order which has the effect on the decree in this suit.

Consequently, I do not find any illegality or irregularity in the order passed by the learned Courts below, which may warrant interference of this Court in exercise of its revisional jurisdiction.

Dismissed

(HEMANT GUPTA)
JUDGE

February 13, 2007
**mohinder*